

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA	:	CASE NO.: 1:08-cr-132
	:	
	:	
v.	:	CHIEF JUDGE DLOTT
	:	
	:	
ALBERT J. STONE	:	<u>PLEA AGREEMENT</u>
	:	

The United States Attorney for the Southern District of Ohio, by and through, Christy L. Muncy, Assistant United States Attorney, and the defendant, ALBERT J. STONE, individually and through his attorney, Karen Savir, Esq., pursuant to Rule 11(c)(1)(A) of the Federal Rules of Criminal Procedure, agree as follows:

RIGHTS OF THE DEFENDANT

1. The defendant understands his rights:
 - a. to plead not guilty;
 - b. to have a trial by jury;
 - c. to confront and cross-examine witnesses and to call witnesses in his defense;
 - d. against compelled self incrimination; and
 - e. to have at least thirty (30) days after appearance with counsel to prepare for trial.

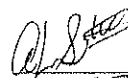
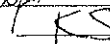
WAIVER OF RIGHTS AND PLEA OF GUILTY

2. The defendant waives the rights set forth in paragraph 1 above, among others, and

<u>aj Stone</u>	Defendant's initials
<u>KS</u>	Counsel's initials

pleads guilty to Count 1 of the Superseding Information, charging a violation of 18 U.S.C. § 2252(a)(4), Possession of Child Pornography.

3. The defendant understands the nature and elements of the offense charged and to which the defendant is pleading guilty.
4. If the defendant's guilty plea is not accepted by the Court or is later set aside, then the United States Attorney's Office will have the right to void this agreement.
5. The defendant is pleading guilty because he is in fact guilty. The Statement of Facts in this case is true and correct and is attached hereto and made a part of this agreement.
6. Prior to the date of sentencing, the defendant will pay a special mandatory assessment of \$100.00 per count to the United States District Court.
7. The defendant agrees that this Court has jurisdiction and authority to impose any sentence up to the statutory maximum. The defendant is aware that 18 U.S.C. § 3742 affords a defendant the right to appeal the sentence imposed. Acknowledging all this, and in exchange for the concessions made by the United States Attorney's Office in this plea agreement, the defendant waives all rights to appeal the sentence imposed, except for the grounds that (a) the sentence imposed includes a term of custody that exceeds the maximum Sentencing Guideline imprisonment range, (b) the sentence exceeds the statutory maximum penalty or (c) the Sentencing Guidelines are calculated incorrectly by the Department of Probation. The United States Attorney's Office reserves its right to appeal the sentence imposed as set forth in 18 U.S.C. § 3742(b). If the government exercises its right to appeal the sentence imposed, then the defendant is released from this appellate waiver and may appeal the sentence.

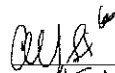




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8. In the event the defendant does not plead guilty, or seeks to withdraw his guilty plea, the defendant waives any protection afforded by Section 1B1.8(a) of the Guidelines, Rule 11(f) of the Federal Rules of Criminal Procedure, and Rule 410 of the Federal Rules of Evidence. Any statement made by the defendant in the course of any plea discussions, any proceeding under Rule 11 of the Federal Rules of Criminal Procedure, or any cooperation with the government will be admissible against the defendant without any limitation in any civil or criminal proceeding.
9. The defendant agrees not to (1) engage in conduct defined under Application Notes 4(a) through (k) of Guideline 3C1.1 or (2) commit any misconduct (including, but not limited to, committing a state or federal offense, violating any term of release, or make a false statement or misrepresentation to any government entity or official) after entering into this agreement.
10. By virtue of the Defendant pleading guilty to the Information, the defendant understands that he is not a prevailing party as defined by 18 U.S.C. § 3006A and, thus, hereby expressly waives any right he has under that provision.

PENALTY

11. The penalties for violation of 18 U.S.C. § 2252(a)(4) are as follows:
- a. imprisonment for not more than ten (10) years, a fine not to exceed \$250,000.00, and supervised release up to Life; and
 - b. a mandatory special assessment of \$100.00 for each count due prior to the date of sentencing, payable to Clerk of Courts, U.S. District Court, Southern District of Ohio.
12. However, if the defendant has a prior conviction under Title 18, Chapters 110, 71, 109A or 117, or Title 10 U.S.C. Section 920 or under the laws of any State, relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a

 Defendant's initials
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minor or ward, or the production, possession, receipt, mailing, sale, or distribution, shipment, or transportation of child pornography, the term of imprisonment increases to not less than ten (10) years nor more than twenty (20) years. The Court may also order the defendant to pay restitution.

SENTENCING

13. The defendant has thoroughly reviewed with counsel how the Sentencing Guidelines apply to this case. The sentence in this case will be imposed by, and is within the sole discretion of, the Court. The defendant understands that the Court could impose the statutory maximum sentence as stated in paragraphs 11 and 12 above. The defendant understands that the United States Sentencing Guidelines are advisory and not mandatory, although the Court is required to consider them and their application to this case in imposing sentence. The defendant understands that the Court may or may not choose to impose sentence based on the applicable sentencing range under the Sentencing Guidelines for the offense charged. If the Court does not accept the terms as set forth in paragraph 14 below, both parties are released from this agreement.
14. If the Court chooses to apply the Sentencing Guidelines, including sentencing the defendant to the maximum sentencing guideline range, or otherwise imposes a sentence higher than expected, the defendant has no right to withdraw his guilty plea.
15. During the duration of any term of supervised release, the defendant shall not:
 - a. Gain access in any manner to any on-line computer service, or to the Internet in any access form;
 - b. Obtain an account or use any other person's or entity's account with any computer on-line service or Internet service provider which has

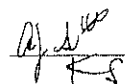
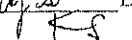
 Defendant's initials
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the capacity to access the Internet in any manner; or

- c. Enter "chat rooms," send or receive "instant messages," or send or receive e-mail with attached electronic files through any electronic medium,

unless such action is required expressly for a class assignment in an accredited educational institution or to carry out a job duty for legal, outside employment, and not self-employment.

- 16. The defendant shall consent, at the direction of the probation officer, to having installed on his computer(s) and any hardware or software, systems to monitor his computer use. Monitoring will occur on a random and/or regular basis. The defendant will warn other occupants of the existence of the monitoring software placed on his computer(s).
- 17. The defendant understands that under the Sex Offender Registration and Notification Act, the defendant must register and keep such information current in the jurisdictions where the defendant resides, is employed, and is a student. The defendant further understands that the requirement to keep the registration current includes informing such jurisdictions not later than three business days after any change of the defendant's name, residence, employment, or student status. The defendant understands that failure to comply with these obligations subjects the defendant to prosecution for failure to register under federal law, specifically 18 U.S.C. § 2250, as well as applicable state statutes.
- 18. The defendant shall not possess any obscenity, pornography, erotica, or nude images.

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Any such material found in the defendant's possession shall be considered contraband and may be confiscated by the probation officer.

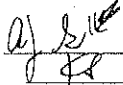
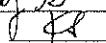
19. The defendant shall undergo a sex offender evaluation and participate in a program of treatment for sexual disorders and any other recommended treatment, including periodic polygraph examinations, as directed by the probation officer. The Court authorizes the release of the pre-sentence report and available psychological evaluations to the mental health provider, as approved by the probation officer.
20. The defendant shall disclose all contact with minor children to the probation officer and shall have no unlawful contact with any minor child. It shall be within the discretion of the probation officer that the defendant make notification and disclosure of his conviction in this case and the fact that he is under supervision. The defendant understands that the government will move for modification if it obtains information that warrants a modification pursuant to 18 U.S.C. § 3583.

FORFEITURE

21. The property (hereinafter "property") seized in this matter belonged exclusively to the defendant, was found in the defendant's possession, and is subject to forfeiture pursuant to 18 U.S.C. § 2253. The property is more specifically identified as follows:

- a. Compaq Presario V5000 laptop computer, Serial Number CND62845K4; and
- b. Power supply cable, Serial Number F3-06060030600B.

The defendant consents to and agrees not to contest the forfeiture of this property to the United States. The defendant shall execute a consent judgment to accomplish the

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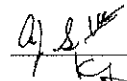
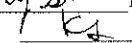
forfeiture stating that no other person has any interest in the property. The defendant will cooperate with the United States in accomplishing the forfeiture of the property, including executing any documents. The defendant expressly waives any double jeopardy and other constitutional, statutory, and other defenses regarding the forfeiture and his conviction. The defendant releases and holds harmless the United States and its agencies and their agents as well as state and local law enforcement agencies and their agents for their actions in the seizure and forfeiture of the property.

22. The defendant agrees to abandon any and all pornographic materials, whether depicting adults or minors or both, and all photographs which depict minors, other than photographs of clothed minor members of the defendant's family.

AGREEMENT OF THE UNITED STATES

23. This agreement includes additional binding recommendations by the United States Attorney's Office pursuant to Rule 11(c)(1)(C). The Court is bound by these recommendations. The recommendations of the United States Attorney's Office are as follows:

- a. In consideration of the defendant's agreement to plead guilty, the United States Attorney for the Southern District of Ohio will not further prosecute the defendant for any conduct prior to the date of this Plea Agreement that was part of the same course of criminal conduct as the matters described in the Indictment.
- b. If, in the opinion of the United States Attorney's Office, the defendant accepts responsibility, and the probation office recommends a two level reduction for "acceptance of responsibility," as provided by U.S.S.G. § 3E1.1(a), the United States Attorney's Office will concur in the recommendation;
- c. If the defendant's offense level is 16 or greater before the two-level

 Defendant's initials
 Counsel's initials

reduction under U.S.S.G. § 3E1.1(a) above and if, in the judgment of the United States, the defendant has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the Court to allocate their resources efficiently, the United States agrees that it will file a motion prior to sentencing to advise the Court that the defendant qualifies for an additional one-level reduction pursuant to U.S.S.G. 3E1.1(b).


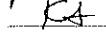
24. The agreement stated above is limited to the United States Attorney's Office for the Southern District of Ohio and does not bind any other federal, state, or local prosecuting authorities.

REPRESENTATION OF COUNSEL

25. The defendant has thoroughly reviewed all aspects of this case with his attorney and is fully satisfied with her legal representation. The defendant has received meaningful and satisfactory explanations from his attorney concerning each paragraph of this plea agreement, each of his rights affected by this Plea Agreement and the alternatives available to him other than entering into this agreement. After conferring with counsel, the defendant has concluded that it is in his strategic best interest to enter into this plea agreement in its entirety, rather than to proceed to trial in this case.

VOLUNTARY PLEA

26. This plea of guilty is freely and voluntarily made and not the result of force or threats or of promises apart from those set forth in this Plea Agreement. There have been no representations or promises from anyone as to what sentence this Court will impose.


Defendant's initials

Counsel's initials

VIOLATION OF PLEA AGREEMENT

27. The defendant agrees that if he violates any provision of this Plea Agreement, the United States may declare this Plea Agreement null and void, and the defendant thereafter will be subject to prosecution for any criminal violation including, but not limited to, any crime(s) or offense(s) contained in or related to the indictment filed in this case, as well as perjury and obstruction of justice.
28. The defendant agrees to abide by each and every term of this agreement. If the defendant makes any statement that is materially false in whole or in part, or fails to comply with any term of this agreement, the United States has the right to declare this agreement void. In the event the defendant violates the terms of this agreement, the defendant waives any statute of limitations with respect to the United States prosecuting the defendant for any offense arising from his conduct in this case.

ENTIRETY OF AGREEMENT

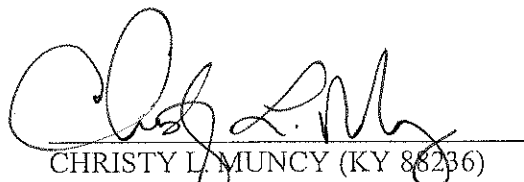
29. The defendant and the defendant's counsel certify that this Plea Agreement has been read in its entirety by (or has been read to) the defendant, and the defendant fully and completely understands the agreement in its entirety.
30. This document constitutes the entire agreement between the defendant and the United States Attorney's Office for the Southern District of Ohio in this matter. There are no agreements, understandings or promises between the parties other than those contained in this agreement.

GREGORY G. LOCKHART
United States Attorney

Al L Defendant's initials
Ks Counsel's initials

2/20/09

Date



CHRISTY L. MUNCY (KY 88236)

Assistant U.S. Attorney

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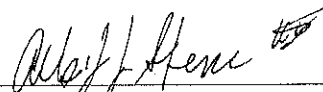
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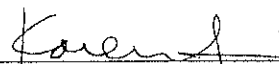


ALBERT J. STONE

Defendant

2/19/09

Date



KAREN SAVIR (KY 92002)

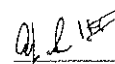
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